THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.14676, 15271 & 21043 of 2001

COMMON ORDER:

In all these writ petitions, common questions of law and fact arise for consideration, and therefore they are being disposed of by this common order.

The facts, which are not in dispute, are that all the petitioners have worked as Lecturers in the respondent college and on attaining the age of superannuation retired from service. However, earlier they filed writ petitions before this Court and continued in service beyond the age of superannuation for about one year and more. Now the present writ petitions are filed complaining that the petitioners have not been paid salaries in the revised pay scales, which were made applicable with effect from 1.1.1996. Admittedly, all the petitioners have attained the age of superannuation only after 1.1.1996, the date on which pay scales were revised and made applicable from the year 1999 with retrospective effect. However, by the time the revised pay scales were given effect to, the petitioners not only retired from service on attaining the age of superannuation, but they were also not in service since the writ petitions filed before this Court earlier were dismissed.

Now according to the petitioners, though 1996 pay scales were made applicable to them till they attained the age of superannuation, they were denied the revised pay scales for the period they worked during the pendency of writ petitions filed by them earlier. According to the management, the service rendered by the petitioners beyond 58 years cannot be counted for any purpose. Maybe, the revised pay scales were not given effect to since the writ petitions were dismissed and the petitioners left the service. Simply because, the revised pay scales were made applicable with effect from 1.1.1996, it cannot be said that the petitioners are entitled to pay scales fixed as on 1.1.1996 even beyond the age of attaining superannuation of 58 years. Thus, the contention of the respondent is that though the

petitioners are entitled to revised pay scales with effect from 1.1.1996, such entitlement is only till they had attained the age of 58 years and it cannot be extended beyond 58 years even if they have worked for one or two years thereafter and for the service rendered beyond 58 years, they are not entitled to the revised pay scales in view of the fact that they were paid salaries as per 1986 pay scales. Though there is some force in what the learned counsel for respondent says, it does not stand to scrutiny of law. The fact remains that all the petitioners have been extended the benefit of revised pay scales, which were made applicable with effect from 1.1.1996 before they attained the age of superannuation. Having applied the regular pay scales till they attained the age of 58 years, now it does not lie in the mouth of the respondents to say that the petitioners are entitled to draw the pre-revised salary for the service rendered by them beyond
58 years since they continued in service in view of the interim orders passed by this Court during the pendency of earlier writ petitions. Once the 1996 pay scales were extended and the petitioners were paid pension and other retiral benefits on the same basis, they are also entitled for the revised pay scales even though they continued in view of the interim orders passed by this Court beyond the age of 58 years. The petitioners cannot be denied of their rightful salary. Maybe, the petitioners are not entitled to count the service rendered beyond 58 years for any other purposes, such as leave encashment, gratuity and other benefits, but definitely they are entitled for salary in the revised pay scales of 1996, firstly on the ground that they have retired after application of pay scales with effect from 1.1.1996 and secondly, on the ground of equal pay for equal work. The other lecturers who were working in the Department during the period beyond 58 years were also paid the 1996 scales.

The learned counsel further submits that the petitioners are entitled for pension under revised pay scales which was applied with effect from 1.1.1996 and thereafter, there was an amendment to the revised pension rules, therefore the petitioners are entitled for certain other benefits such as commutation of pension etc., as per G.O (P) No.195 dated 1.8.2000 wherein

minimum pension was raised to Rs.1,275/- per month, but these benefits are not extended to the petitioners. The learned counsel also submits that there was an enhancement of maximum limit of gratuity from Rs.1.75 lakhs to Rs.2.5 lakhs and the petitioners are also entitled for the same automatically.

Insofar as enhancement of commutation of pension from 1/3rd to 40% at Rs.1,275/- per month is concerned, there cannot be any difficulty to accept the said contention of the learned counsel for petitioner in view of the judgment rendered by the apex Court in V. Kasturi, v. Managing Director, State Bank of India, Bombay and another[1]. Therefore, I am of the considered opinion that the petitioners are entitled for enhancement of the limit of commutation of pension from 1/3rd to 40% and they are also entitled for minimum pension of Rs.1275/-.

Insofar as enhancement of maximum limit of gratuity from Rs.1.75 lakhs to Rs.2.5 lakhs is concerned, the petitioners are not entitled for the same in view of the fact that the Payment of Gratuity Act was amended with effect from 23.6.1998 Any benefit as amended by the Payment of Gratuity Act for the purpose of payment of gratuity, petitioners are entitled from the date of enhancement as stipulated in the Act. Simply because, some retiral benefits like commutation and payment of minimum pension are also included in the revised policy, that does not mean that the petitioners are automatically entitled for such gratuity though they have retired even before the amendment of Gratuity Act. Therefore, I am of the opinion that the petitioners are not entitled for enhancement of gratuity limit from Rs.1.75 lakhs to Rs.2.5 lakhs.

For all the above reasons, the writ petitions are allowed in part and the petitioners are entitled for salary and other allowances on par with others under 1996 pay scales even for the period they worked beyond the age of superannuation. However, the petitioners are neither entitled for leave encashment and other benefits nor the service rendered by them beyond 58 years can be computed for the purpose of pension etc. No order as to costs.

C.V.RAMULU,
J

Date: 12.4.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

12.4.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.Nos.14676, 15271 & 21043 of 2001

Date: 12th April, 2007

Between:

B.M.Subbuswamy . Petitioner in W.P.No.14676 of 2001

C.N.Nagaraja Rao (died) per L.Rs.
Smt.C.Savitri & another. ..Petitioners in W.P.No.15271 of 2001

P.S.Prakash Rao … Petitioner in W.P.No.21043 of 2001

And

The Executive Officer,
Tirumala Tirupati Devasthanams,
Tirupati & another.

.. Respondents in all the W.Ps.

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[1] AIR 1999 SC 81